

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:11cv237**

**TIFFANY OLEAN SMITH,**

**Plaintiff,**

**vs.**

**MICHAEL J. ASTRUE,  
Commissioner of Social Security,**

**Defendant.**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**ORDER OF REMAND**

**THIS MATTER** is before the Court on the Defendant's Agreed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. Section 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 15]. As noted, the Plaintiff consents to the motion.

Sentence Four of 42 U.S.C. §405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties here have moved for reversal of the decision of the Defendant and for remand for further administrative proceedings.

Upon remand to the Commissioner, the Appeals Council shall assign this case to an administrative law judge (ALJ). The Appeals Council will instruct the new ALJ to: (1) further consolidate the files of this case with the subsequently filed claim of the Plaintiff; (2) consider all the evidence in accordance with HALLEX<sup>1</sup> §I-5-3-17E; (3) further develop the record as warranted; and (4) issue a new decision on the issue of disability. The Court finds remand is appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Defendant's Agreed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. Section 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 15] is hereby **GRANTED**.

**IT IS FURTHER ORDERED** that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is hereby **REMANDED**.

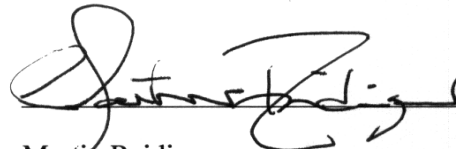
**IT IS FURTHER ORDERED** that upon remand, the Commissioner shall comply with the directives contained within this Order.

---

<sup>1</sup>This acronym refers to the Social Security Administrations' Hearing, Appeals and Litigation Law Manual. Roten v. Asture, 2011 WL 4596129 n.4 (W.D.N.\c. 2011).

The Clerk of Court shall enter separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: April 17, 2012

  
Martin Reidinger  
United States District Judge

